

Agency: Department of Land Conservation and Development

Package Number and Title: 101, Measure 37

Short Package Description: This policy package is in response to the voter-approved initiative which took effect December 2, 2004. Codified in ORS 197.352, Measure 37 permits claimants to file claims with the state for compensation, or waiver of land use regulation, related to loss of fair market value due to land use regulation.

PART A: Links to and Impacts on Agency Key Performance Measures (KPMs):

2007-09 MEASURE 37—Percentage of Measure 37 claims assigned to the agency that are processed within 180 days. #19										
DATA:	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<i>Actual</i>							<i>100</i>			
<i>Target</i>							<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>
<i>Target Impact There is no incremental performance result.</i>										

Longer-Range Effects: Failure to pass this package will mean substantial failure in department’s ability and state’s ability to meet legal deadlines as stipulated in ORS 197.352.

PART B: Other Performance Measures:

There are no internal key performance measures directly linked to this package.

Measure:							
Identify whether the measures is an: Existing Internal Measure ____ New Measure for POP ____							
DATA:	2003	2004	2005	2006	2007	2008	2009
<i>Actual</i>							
<i>Target</i>							
<i>Target Impact</i>							

PART C: Other Impacts and Ensuring Successful Package Implementation:

This policy package, or a revised version of it as may be necessary, would allow the department to meet the 2007-09 Proposed Key Performance Measure #19 and the statutory 180-day deadline for processing claims. It would also provide funds to pay the department’s DOJ costs related to Measure 37, including for representation of Measure 37 related litigation. Measure 37 as codified in ORS 197.352 requires that “just compensation” shall be due to the owners of property if land use regulations continue to apply within 180 days after a

valid claim has been filed. After that time, the owner may file a claim for compensation in the circuit court of the county in which the property is located, for the amount of compensation, plus attorney fees and costs. Although the amount of compensation asserted by claims is unverified, clearly it is important for the state to conclude the processing of claims in a timely manner, so as to minimize its risk of liability. In short, approval of a package to cover Measure 37 processing and litigation costs will allow the department and the State of Oregon to meet its 180-day statutory obligation minimizing the risk of any claims for compensation in circuit court. Where claims are filed in circuit court, the funds would provide for effective DOJ representation, again minimizing the risk of any related state compensation liability. The department also recognizes and recommends that the assumptions in its current Governor's Recommended Budget package, including the volume of new claims, the continued processing of existing "pre-December 4th surge claims", and any litigation costs be further evaluated during the Ways and Means Process.